

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDRA M. HAGINS,

Petitioner,

v.

JOHN GAY, WARDEN,

Respondent.

Case No. C06-5676FDB-KLS

ORDER GRANTING  
RESPONDENT'S MOTION FOR  
EXTENSION OF TIME TO FILE  
SUPPLEMENTAL ANSWER

This matter is before the Court on respondent's motion for an extension of time to file a supplemental answer to the petition (Dkt. #31), in response to the Court's order to show cause directing him to do so (Dkt. #30). After reviewing the motion, petitioner's response thereto (Dkt. #32) and the remaining record, the Court hereby ORDERS as follows.

On October 5, 2007, respondent filed a motion requesting an extension of time until November 29, 2007, in which to file an answer to petitioner's petition, stating that the additional time was necessary to properly review and prepare the relevant state court record and prepare an adequate answer. (Dkt. #24). In granting respondent's motion, the Court noted that petitioner had not filed any response to that motion, nor had he raised any objection thereto. (Dkt. #29). In addition, the Court found that respondent's motion

1 had not been filed for improper purposes and that the requested extension of time would not prejudice  
2 petitioner.

3 On January 14, 2008, the Court denied respondent's request in his answer to dismiss petitioner's  
4 petition as untimely. (Dkt. #30). The Court also directed respondent to file a supplemental answer by no  
5 later than February 11, 2008, addressing the merits of the claims raised in the petition, and stating  
6 whether all available state remedies had been exhausted and whether an evidentiary hearing was  
7 necessary. On January 18, 2008, respondent filed his present motion for an extension of time, requesting  
8 an additional 45 days in which to file the supplemental answer due to respondent counsel's need to work  
9 on several state and federal court cases simultaneously. (Dkt. #31).

10 In his response, petitioner objects to respondent's request, asserting that respondent's counsel has  
11 been deceitful in his representations to this Court, and that the present motion is being filed merely for the  
12 purpose of creating a tactical advantage. Petitioner further asserts that he will be prejudiced if the request  
13 is granted, in that his liberty will be "more impaired by this delay." (Dkt. #32, p. 2). However, the Court  
14 finds no evidence in the record of an intent to misrepresent the law or the facts of this case. In addition,  
15 while respondent's argument regarding the untimeliness of petitioner's petition was rejected by the Court,  
16 this does not mean it was made for improper purposes, nor does the Court so find.


17 There also is no evidence that respondent has filed the present motion for the purpose of creating a  
18 tactical advantage. Indeed, as set forth below, petitioner shall be provided with the opportunity to  
19 respond to the supplemental answer. Finally, petitioner has not shown that the granting of respondent's  
20 request will prejudice him. That is, he has failed to show a likelihood of success on the merits, or, even if  
21 such a showing had been made, that a favorable decision necessarily would be issued quicker were the  
22 Court to deny respondent's motion.

23 Accordingly, having found that respondent's motion has not been filed for any improper purposes  
24 and that petitioner will not be prejudiced by the requested extension of time, respondent's motion for an  
25 extension of time to file a supplemental answer (Dkt. #31) hereby is GRANTED. Respondent shall have  
26 until **no later than March 7, 2008**, in which to file a supplemental answer, along with all relevant state  
27 court records. Petitioner shall have until **no later than March 21, 2008**, in which to file a response  
28 thereto. Respondent shall have until **no later than March 27, 2008**, in which to file a reply to

1 petitioner's response. This matter shall be re-noted for consideration on **March 28, 2008**.

2 The Clerk shall send copies of this Order to petitioner and counsel for respondent.

3 DATED this 21st day of February, 2008.

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7 Karen L. Strombom  
8 United States Magistrate Judge  
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